

**BEFORE THE
MISSOURI BOARD OF PHARMACY
STATE OF MISSOURI**

IN RE:

WELLFOUNT PHARMACY:ROSEWOOD MANOR

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Case #2018-002533

**ORDER OF THE MISSOURI BOARD OF PHARMACY
ISSUING WELLFOUNT PHARMACY:ROSEWOOD MANOR
A PHARMACY PERMIT SUBJECT TO PROBATION**

Comes now the Missouri Board of Pharmacy ("Board") and issues its ORDER granting a PROBATED pharmacy permit, permit number 2018013424, to WELLFOUNT PHARMACY: ROSEWOOD MANOR ("ROSEWOOD MANOR") pursuant to the provisions of Section 324.038, RSMo. As set forth in Section 324.038, RSMo, ROSEWOOD MANOR may submit a written request for a hearing to the Administrative Hearing Commission seeking review of the Board's decision to issue a probated permit to ROSEWOOD MANOR. Such written request must be submitted to the Administrative Hearing Commission within thirty (30) days of issuance of this Order. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman Building Room 640, Jefferson City, MO 65102-1557. If no written request for review is received by the Administrative Hearing Commission within the thirty (30) day period, the right to seek review of the Board's decision shall be waived.

The disciplinary period shall become effective immediately upon issuance of ROSEWOOD MANOR's' pharmacy permit. Should ROSEWOOD MANOR file a written request for review of this Order, the terms and conditions of the Order shall remain in force and effect unless and/or until such time as the Administrative Hearing Commission issues an order contrary to this Order.

FINDINGS OF FACT

1. The Board is an agency of the State of Missouri created and established pursuant to Section 338.110, RSMo, for the purpose of executing and enforcing provisions of Chapter 338, RSMo.
2. ROSEWOOD MANOR filed an application for a pharmacy permit with the Board on March 28, 2018 for an automatic dispensing system (ADS) to be used at a location at 1515 West

White Oak Street Independence, Missouri 64050. The permit issued pursuant to this Order is in response to that application.

3. From March 28, 2018, until at least April 20, 2018, ROSEWOOD MANOR operated its ADS without an active permit issued by the Board. The Board assigned ROSEWOOD MANOR a temporary pharmacy permit, numbered 2018013424.

4. After receipt of the application referenced in paragraph 2 above, and following an investigation by the Board, the Board advised ROSEWOOD MANOR that it was operating a pharmacy through its ADS without a pharmacy permit and that it operated without a BNDD permit, all in violation of Chapters 195 and 338 RSMo and the regulations promulgated thereunder.

5. Between March 28, 2018, and April 20, 2018, ROSEWOOD MANOR dispensed through its ADS prescription medicine without having a pharmacy permit to do so.

6. Between March 28, 2018, and July 24, 2018, ROSEWOOD MANOR possessed controlled substances in its ADS prior to obtaining a registration from the Bureau of Narcotics and Dangerous Drugs. It claims it did not dispense controlled substances to patients during this time frame.

7. On August 8, 2018, David Burand, the pharmacist in charge for ROSEWOOD MANOR and John Solhan, its Vice President of Quality and Operations, responded to questions raised by the Board admitting it had violated Chapters 195 and 338 RSMo and promised to comply with the provisions of Chapters 195 and 338 in the future. Mr. Burand had previously conceded that ROSEWOOD MANOR had violated provisions of Chapters 195 and 338 RSMo in its operation of the ADS machine at this location.

8. This Order is issued in response to the application filed on March 28, 2018.

9. Based on information received by the Board, pursuant to Section 338.055 RSMo, the Board concluded ROSEWOOD MANOR engaged in conduct which would be grounds for denying ROSEWOOD MANOR a permit, or if it had been currently permitted by the Board, disciplinary action by the Board against its pharmacy permit.

10. Pursuant to the provisions of Section 324.038, RSMo, the Board hereby issues pharmacy permit number 2018013424 to ROSEWOOD MANOR in lieu of denial of ROSEWOOD MANOR's request for a permit to practice pharmacy in Missouri. Permit number 2018013424 is issued subject to the terms and conditions set forth herein below.

CONCLUSIONS OF LAW

11. ROSEWOOD MANOR's conduct as alleged above is cause for the Board to deny ROSEWOOD MANOR a permit to practice pharmacy pursuant to Section 338.055.1 and .2 (6) and (15), RSMo, which states in pertinent parts:

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section or if the designated pharmacist-in-charge, manager-in-charge, or any officer, owner, manager, or controlling shareholder of the applicant has committed any act or practice in subsection 2 of this section.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * *

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(15) Violation of the drug laws or rules and regulations of this state or any other state or the federal government;

12. Section 324.038.1, RSMo, provides in pertinent part:

1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

13. The Board hereby issues this ORDER in lieu of denial of ROSEWOOD MANOR's request for a permit to practice pharmacy in Missouri pursuant to Section 324.038, RSMo.

ORDER


14. Based on the foregoing, it is the ORDER of the Missouri Board of Pharmacy that, in lieu of denying a pharmacy permit, the Board hereby issues ROSEWOOD MANOR pharmacy permit number 2018013424 subject to **PROBATION** for three years ("disciplinary period"). This Order shall become effective on the date of this Order. The terms of discipline shall be:

- A. ROSEWOOD MANOR shall pay all required fees for licensing to the Board and shall renew its permit prior to October 31 of each licensing year.
 - B. ROSEWOOD MANOR shall comply with all provisions of Chapter 338, Chapter 195, and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.
 - C. If requested, ROSEWOOD MANOR shall provide the Board a list of all licensed pharmacists employed by ROSEWOOD MANOR and the individuals' current home addresses and telephone numbers.
 - D. If, after disciplinary sanctions have been imposed, ROSEWOOD MANOR fails to keep its pharmacy permit current, the period of unlicensed status shall not be deemed or taken as any part of the time of discipline so imposed.
 - E. ROSEWOOD MANOR shall report to the Board, on a preprinted form supplied by the Board office, once every six months (due by each January 1 and July 1), beginning with whichever date occurs first after the date of this Order, stating truthfully whether or not ROSEWOOD MANOR has complied with all terms and conditions of this Order.
 - F. ROSEWOOD MANOR shall not serve as an intern training facility for interns.
 - G. ROSEWOOD MANOR shall make a representative of the pharmacy available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings will be at the Board's discretion and may occur periodically during the disciplinary period. ROSEWOOD MANOR will be notified and given sufficient time to arrange these meetings.
 - H. ROSEWOOD MANOR's failure to comply with any condition of probation set forth herein constitutes a violation of this Order.
- 1 The Board will maintain this Order as an open record of the Board as provided in Chapters 334, 338, and 610, RSMo.

- 2 Upon the expiration of the disciplinary period, the permit of ROSEWOOD MANOR shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the Board determines that ROSEWOOD MANOR has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke or otherwise lawfully discipline ROSEWOOD MANOR's permit.
- 3 No order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and opportunity for hearing before the Board as a contested case in accordance with the provisions of Chapter 536, RSMo.
- 4 This Order does not bind the Board or restrict the remedies available to it concerning any future violations by ROSEWOOD MANOR of Chapter 338, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Order.
- 5 If the Board determines that ROSEWOOD MANOR has violated a term or condition of this Order, which violation would be actionable in a proceeding before the Administrative Hearing Commission or the Circuit Court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

SO ORDERED this 30th day of April, 2019

BOARD SEAL



KIMBERLY A. GRINSTON
EXECUTIVE DIRECTOR
MISSOURI BOARD OF PHARMACY